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**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8****In Re: Patent Application of Charles A. Eldering et al.**

Conf. No.: 8268 : Group Art Unit: 2623  
Appln. No.: 09/750,812 : Examiner: John Manning  
Filing Date: 28 December 2000 : Attorney Docket No.: T733-10  
Title: Grouping Advertisement Subavails

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1. Response to Notice of Non-Compliant Appeal Brief (5 pgs.)

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## CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8)

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In Re: Patent Application of Charles A. Eldering et al

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RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF  
UNDER 37 C.F.R. § 41.37(d)

In response to the Notice of Non-Compliant Appeal Brief, dated February 13, 2007, and further to the Appeal Brief filed on December 21, 2006, please amend Applicants' Appeal Brief in the above-identified application as follows:

Application No. 09/750,812  
Response to Non-Compliant Appeal Brief

**APPEAL BRIEF REPLACEMENT SECTION**

Please replace Section (E) of the Appeal Brief ("Summary of Claimed Subject Matter"), with the following Replacement Section, in accordance with MPEP § 1205.03:

**-(E) SUMMARY OF CLAIMED SUBJECT MATTER**

With respect to independent claim 18, the claimed subject matter relates to a method for managing advertisement opportunities or avails in a television network environment (see for example, page 6, line 29 – page 7, line 7 of the specification). An advertisement opportunity, i.e., an avail, is recognized (see, for example, Fig. 1 and page 7, lines 8-12 and 21-25 of the specification). Each advertisement opportunity has an expected viewership, i.e., a measure of people, households, subscribers, units, etc., that an advertiser would expect to be typically be exposed to a particular program or advertisement (see, for example, Figs. 1 and 4; page 2, lines 20-28; page 4, lines 9-12; page 5, lines 11-19; and page 18, line 21 – page 19, line 2 of the specification). A plurality of subavails, i.e., a portion of an advertisement opportunity (see page 4, lines 1-4 and 13-22 of the specification), is created based on the recognized advertisement opportunities (see Figs. 1-3; page 7, lines 8-12 and 25-29; and page 10, lines 9-22 of the specification). Each of the subavails is directed at a target audience group (see, for example, page 7, lines 25-29, and page 10, line 23 – page 12, line 13 of the specification). Each of the subavails also has a portion of the expected viewership of that subavail's corresponding advertisement opportunity (see, for example, Figs. 1 and 4; page 4, lines 9-12; page 5, lines 11-19; and page 18, line 21 – page 19, line 2 of the specification). One or more groups of subavails are generated by aggregating the subavails from at least two of the advertisement opportunities (see Figs. 1-3; page 4, line 23 – page 5, line 2; and page 12, lines 14-18 of the specification). At least one of the groups of subavails has a total expected viewership that is greater than or equal to that of one of the advertisement opportunities from which the subavail group originated (see, for example, page 4, line 1 – page 5, line 2 and the paragraph bridging pages 14-15 of the specification).

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Independent claim 18 recites:

A method of managing advertisement opportunities or avails in a television network environment, the method comprising:

- (a) recognizing one or more advertisement opportunities, each advertisement opportunity having an expected viewership;
- (b) creating a plurality of subavails based on the recognized advertisement opportunities, wherein each subavail is directed at a target audience group and each subavail is associated with a portion of the expected viewership of its corresponding advertisement opportunity; and
- (c) generating one or more groups of subavails by aggregating the plurality of subavails from at least two of the advertisement opportunities, wherein at least one of the groups of subavails has a total expected viewership greater than or equal to the expected viewership of one of the advertisement opportunities from which the subavails in the at least one group originated.

With respect to independent claim 29, the claimed subject matter relates to a system for managing advertisement opportunities or avails in a television network environment (see for example, page 6, line 29 – page 7, line 7 of the specification). An avail opportunities recognition module 104 recognizes an advertisement opportunity, i.e., an avail (see, for example, Fig. 1 and page 7, lines 8-12 and 21-25 of the specification). Each advertisement opportunity has an expected viewership, i.e., a measure of people, households, subscribers, units, etc., that an advertiser would expect to be typically be exposed to a particular program or advertisement (see, for example, Figs. 1 and 4; page 2, lines 20-28; page 4, lines 9-12; page 5, lines 11-19; and page 18, line 21 – page 19, line 2 of the specification). A subavail generation module 106 (see, for example, Fig. 1 and page 7, lines 8-12 and 25-29; and page 10, lines 9-22 of the specification) creates a plurality of subavails, i.e., a portion of an advertisement opportunity (see Figs. 1-3 and page 4, lines 1-4 and 13-22 of the specification), based on the recognized advertisement opportunities. Each of the subavails is directed at a target audience group (see, for example, page 7, lines 25-29 and page 10, line 23 – page 12, line 13 of the specification).

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Each of the subavails also has a portion of the expected viewership of that subavail's corresponding advertisement opportunity (see, for example, Figs. 1 and 4; page 4, lines 9-12; page 5, lines 11-19; and page 18, line 21 – page 19, line 2 of the specification). A subavail aggregation (or grouping) module 112 creates one or more groups of subavails by aggregating the subavails from at least two of the advertisement opportunities (see Figs. 1-3; page 4, line 23 – page 5, line 2; and page 12, lines 14-18 of the specification). At least one of the groups of subavails has a total expected viewership that is greater than or equal to that of one of the advertisement opportunities from which the subavail group originated (see, for example, page 4, line 1 – page 5, line 2 and the paragraph bridging pages 14-15 of the specification).

Independent claim 29 recites:

An advertisement management system for managing advertisement opportunities or avails in a television network environment, the system comprising:

an advertisement opportunities recognition module configured to recognize advertisement opportunities, each advertisement opportunity having an expected viewership;

a subavail generation module configured to create a plurality of subavails based on the recognized advertisement opportunities, wherein each subavail is directed at a target audience group and each subavail is associated with a portion of the expected viewership of its corresponding advertisement opportunity; and

a grouping module configured to create one or more groups of subavails by aggregating the plurality of subavails from at least two of the advertisement opportunities, wherein at least one of the groups of subavails has a total expected viewership greater than or equal to the expected viewership of one of the advertisement opportunities from which the subavails in the at least one group originated.--

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### REMARKS

This paper is being filed in response to the Notice of Non-Compliant Appeal Brief ("Notice"). The Notice contends that Applicants' Appeal Brief, filed on December 21, 2006, does not fully comply with the requirements for the contents of an Appeal Brief set forth in 37 C.F.R. § 41.37(c). In particular, the Notice points out that the Appeal Brief does not contain a concise explanation of the subject matter of each independent claim, in that, "[t]he independent claims 18 and 29 should be clearly provided and the claims should be explicitly mentioned or referred to in the Summary section."

Applicants have submitted herewith a Replacement Section (E) to the Appeal Brief ("Summary of Claimed Subject Matter"), in accordance with MPEP § 1205.03. Thus, Applicants have not re-submitted the Appeal Brief in its entirety. Applicants believe that the Replacement Section (E) addresses all of the concerns raised in the Notice, including a concise explanation of the subject matter that explicitly mentions the independent claims. Accordingly, Applicants respectfully request entry of the Replacement Section (E) submitted herewith and that the Appeal Brief submitted on December 21, 2006, be amended in accordance therewith.

In view of the foregoing, Applicants respectfully submit that the alleged deficiencies identified in the Notice have been corrected and that Appeal Brief as amended herein is in compliance with the requirements set forth in 37 C.F.R. § 41.37(c). Applicant respectfully requests that the Appeal Brief be passed to the Board for reversal of the Examiner's rejections of claims 18-34 and remand of this application for issue.

Respectfully submitted,

Date: 3/13/07

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